IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO: 13773 of 2005

Between:

Dharmavarapu Srinivasa Rao, S/o. Subba Rao,
R/o. Madduluru, R/o. S.N. Padu Mandal,
Prakasam District.

..... PETITIONER

A N D

1 The District Collector, Prakasam District.
2 S. Venkateswarlu, Election Officer (Mandal Literacy Officer),
S.N. Padu Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Notification dt.13-6-2005 issued by the 2nd respondent for conducting election to the Ward Member of 9th ward, Madduluru Gram Panchayat, S.N. Padu Mandal, Prakasam District to be held on 28-6-2005 as illegal, arbitrary and against the principles of natural justice and consequently direct the respondents to issue a fresh notification by dereserving the ward member of 9th ward, Madduluru Gram Panchayat, S.N.Padu Mandal, Prakasam District.

Counsel for the Petitioner: MR.V.R.MACHAVARAM

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following: (order follows 2nd page)

O R D E R :

This writ petition is filed to declare the notification datd 13-6-2005 issued by the second respondent for conducting election to the Ward Member of 9th ward, Madduluru Gram Panchayat, SN Padu Mandal, Prakasam district to be held on 28-6-2005 as illegal, arbitrary and against the principles of natural justice and consequently direct the respondents to issue a fresh notification by de-reserving the ward member of 9th ward, Madduluru Gram Panchayat, SN Padu Mandal, Prakasam district.

The petitioner submits that the second respondent issued a notification dated 13-6-2005 for conducting bye-election to the 9th ward of Madduluru Gram Panchayat to be held on 28-6-2005 to fill up the vacancy of ward member caused due to the death of Ward Member Gaddam Musalaiah. As per the above notification, the above ward is reserved for scheduled caste candidate only.

The petitioner further submits that the 9th ward, which is going for the bye-election was earlier represented by a schedule caste member. There was a reorganization of wards in the Gram Panchayat due to which the voters of previous 9th ward have been included in 12th ward. The voters of present 9th ward have come from the previous 5th and 6th wards who are all belonging to OC community. If the election is to be conducted to the 9th ward, which is predominantly comprising of voters

belonging to OC community, it is just and necessary that an opportunity should be given to all the communities to contest in the election by keeping the ward as a General ward. Further if the respondents want to conduct election for the said vacancy they have to conduct election to the 12th ward where the majority of voters belong to SC community who have been included in the present 12th ward by removing them from the previous 9th ward.

It is further submitted that the reorganization of the wards was not based on the correct statistics of voters in respect of their communities. If really the Government wants to maintain equality of social status among the communities and to give a fair opportunity to the weaker sections, the present 9th ward membership should be kept open to all the communities, since the majority of voters are OCs.

After hearing the learned counsel for the petitioner as well as the learned Govt.Pleader for Revenue, it is settled principle of law that when once the schedule of election is notified where is the question of entertaining the writ petition under Article 226 of the Constitution of India. The writ petition is misconceived and liable to be dismissed.

The writ petition is accordingly dismissed at the admission stage. No costs.

JUNE 27th, 2005. ----------

I S L. ELIPE DHARMA RAO, J.

To

1 The District Collector, Prakasam District.
2 Sri S.Venkateswarlu, the Election Officer (Mandal Literacy Officer),
S.N. Padu Mandal, Prakasam District.

3 One CC to Govt.Pleader for Revenue,

High Court Buildings, High Court of AP Hyderabad (OUT).

4 Two CD Copies.